

AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	---

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
filed in the U.S. District Court Northern District California on the ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 11-02469 JCS	DATE FILED 5/20/11	U.S. DISTRICT COURT 450 Golden Gate Avenue, 16 th Floor, San Francisco CA 94102
PLAINTIFF EIT HOLDINGS LLC		DEFENDANT THESTREET.COM,INC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,828,837		***See Attach Complaint***
2		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wieking	(BY) DEPUTY CLERK Gina Agustine-Rivas	DATE May 23, 2011
-----------------------------	--	----------------------

Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

1 Mark W. Good (State Bar No. 218809)
2 Benedict O'Mahoney (State Bar No. 152447)
3 TERRA LAW LLP
4 177 Park Avenue, Third Floor
5 San Jose, California 95113
6 Telephone: (408) 299-1200
7 Facsimile: (408) 998-4895
8 Email: mgood@terra-law.com
9 Email: bomahoney@terra-law.com

10 Edward W. Goldstein (TX Bar No. 08099500)
11 1177 West Loop South, Suite 400
12 Houston, Texas 77027
13 Telephone: (713) 877-1515
14 Facsimile: (713) 877-1737
15 Email: egoldstein@gviplaw.com

16 Attorneys for Plaintiff
17 EIT Holdings LLC

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20 EIT HOLDINGS LLC, a Delaware company,

21 Plaintiffs,

22 vs.

23 THESTREET.COM, INC., a Delaware
24 Corporation,

25 Defendants.

ECF DOCUMENT

I hereby attest and certify this is a printed copy of a
document which was electronically filed with the United States
District Court for the Northern District of California.

Date Filed: 5/23/11

RICHARD W. WIEKING, Clerk

By: GINA AGUSTINE, Deputy Clerk

ORIGINAL FILED

MAY 20 2011

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

JCS

CV 11-02469

Case No.

ORIGINAL COMPLAINT
FOR: PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT

Plaintiff EIT Holdings LLC ("Plaintiff" or "EIT"), files this Original Complaint against
TheStreet.com, Inc. ("TheStreet") alleging as follows:

THE PARTIES

1. Plaintiff, EIT Holdings LLC is a limited liability company organized under the
laws of the state of Delaware, having its principal place of business at 2711 Centerville Road,
Suite 400, Wilmington, DE, 19808.

2. Defendant TheStreet.com, Inc., on information and belief, is a corporation organized under the laws of the state of Delaware and has a principal place of business at 14 Wall Street, 15th Floor, New York, NY 10005. TheStreet.com, Inc., can be served through its Counsel, Ryan M. Kent, Durie Tangri, 217 Leidesdorff Street, San Francisco, CA 94111.

JURISDICTION & VENUE

3. This is an action for infringement of a United States patent. Accordingly, this action arises under the patent laws of the United States of America, 35 U.S.C. § 1 et seq., and jurisdiction is properly based on 35 U.S.C. § 271 and 28 U.S.C. § 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(b-c) and 1400(b). Upon information and belief, the Defendant transacts or has transacted business in this judicial district, or committed and/or induced acts of patent infringement in this district.

PATENT INFRINGEMENT COUNT

5. On December 10, 2010, EIT initially filed against TheStreet and other defendants in the District of Delaware. TheStreet requested it be dismissed from the Delaware action and joined to an ongoing action in the Northern District of California (C-10-05623-WHA) before the Honorable William H. Alsup. EIT complied. However, on May 11, 2011, Judge Alsup held that the Defendants, including theStreet, were improperly joined. He dismissed all except the first-named Defendant and invited counsel to re-file against each Defendant in a separation action.

6. On October 27, 1998, United States Patent No. 5,828,837 ("the '837 patent") entitled "Computer Network System and Method for Efficient Information Transfer" was duly and legally issued. EIT holds the title by mesne assignments from the inventor, including the right to sue for past, present and future damages. A copy of the '837 patent is attached as Exhibit A. The '837 patent is directed to a method and system that maintains a profile for registered users and then transmits references to target information to the users based on their profile.

7. Pursuant to 35 U.S.C. § 282, the '837 patent is presumed valid.

8. To the extent necessary, Plaintiff has complied with the notice and marking requirements of 35 U.S.C. § 287.

1 9. TheStreet utilizes a website that provides commercial and non-commercial
2 information or allow users to buy products or services. Its website allows users to register and
3 create a user account, which includes a unique id such as a unique email address or a user defined
4 unique username for ordering or accessing information. TheStreet receives and stores information
5 about the users in a database through the use of a web connected server. When a registered user
6 accesses TheStreet's website, references to commercial and non-commercial target information,
7 such as advertisements, additional content on areas of interest or information about additional
8 products, are transmitted to the user and displayed on his or her web accessible device including
9 but not limited to a desktop computer, a laptop computer, a mobile phone or a game console.
10 TheStreet determines appropriate target information for each user based on the user profile
11 information including but not limited to demographics, personal preferences, interests, past
12 content viewing history and past purchase history.

13 10. TheStreet, on information and belief, utilizes a computer network system and
14 method for transferring information that infringes at least claims 40 and 41 of the '837 patent, by
15 utilizing the features described in Paragraph 9 on at least its website www.TheStreet.com and/or
16 other websites utilizing similar features. By making, operating, using and/or selling such websites,
17 TheStreet has infringed and continues to infringe, contribute to the infringement of, or induce the
18 infringement of at least claims 40 and 41 of the '837 patent, either literally or under the doctrine
19 of equivalents.

20 11. Accordingly, TheStreets's acts of infringement of the '837 patent, as alleged above,
21 have injured Plaintiff and thus, Plaintiff is entitled to recover damages adequate to compensate it
22 for TheStreet's acts of infringement, which in no event can be less than a reasonable royalty.

23 **DEMAND FOR JURY TRIAL**

24 12. Plaintiff hereby demands a jury trial on all claims and issues.

25 **PRAYER FOR RELIEF**

26 Wherefore, Plaintiff prays for entry of judgment:

27 1. that Defendant TheStreet.com, Inc.. has infringed one or more claims, specifically
28 claims 40 and 41, of the '837 patent;

1 2. that Defendant TheStreet.com, Inc. accounts for and pays to Plaintiff all damages
2 caused by the infringement of the '837 patent, which by statute can be no less than a reasonable
3 royalty;

4 3. that Plaintiff be granted pre-judgment and post-judgment interest on the damages
5 caused to them by reason of Defendant TheStreet.com Inc.'s infringement of the '837 patent;

6 4. that costs be awarded to Plaintiff; and

7 5. that Plaintiff be granted such other and further relief as the Court may deem just
8 and proper under the current circumstances.

9 Dated: May 20, 2011

Respectfully submitted,

10
11 By: 

Benedict O'Mahoney (SBN 152447)
Mark W. Good (SBN 218809)
TERRA Law LLP
177 Park Avenue, Third Floor
San Jose, California 95113
Tel: (408) 299-1200
Fax: (408) 998-4895
Email: mgood@terra-law.com
Email: bomahoney@terra-law.com

12
13
14
15
16
17 **ATTORNEYS FOR PLAINTIFF**
18
19
20
21
22
23
24
25
26
27
28